

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

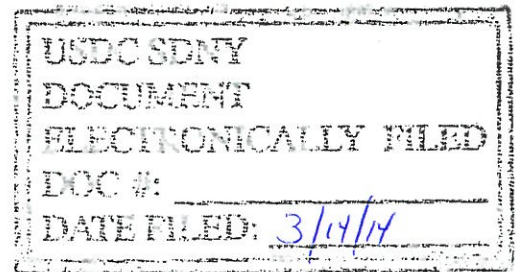
RASHAAD DONNELL GUERRERO,

Plaintiff,

-against-

FJC SECURITY SERVICES, INC., and
LOCAL 32BJ SEIU,

Defendants.



13 Civ. 4288 (SHS)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

On February 5, 2014, Magistrate Judge Ronald L. Ellis issued a Report and Recommendation recommending that (1) the motion of defendant Local 32BJ SEIU (the "Union") to dismiss the complaint be granted, (2) the case be dismissed with prejudice, and (3) the Court impose certain procedural limitations on plaintiff Guerrero's ability to file suits against the Union in this Court. Objections to the Report and Recommendation were due on February 24, 2014. To date, no objections have been received by this Court. This Court has reviewed that Report and Recommendation *de novo* and now modifies the recommended sanction and otherwise adopts the Report and Recommendation dated February 5, 2014.

The Court notes that although only the Union moved to dismiss, and defendant FJC Security Services, Inc., did not join that motion, the Report and Recommendation nonetheless recommends that the complaint be dismissed in its entirety. "*Sua sponte* dismissal of the complaint with respect to [FJC] is appropriate here, because the issues concerning [FJC] are substantially the same as those concerning [the Union], and [Guerrero], the party against whom the judgment of dismissal [is] entered, had notice and a full opportunity to make out his claim against [FJC]." *Hecht v. Commerce Clearing House, Inc.*, 897 F.3d 21, 26 n.6 (2d Cir. 1990) (citing *Perez*

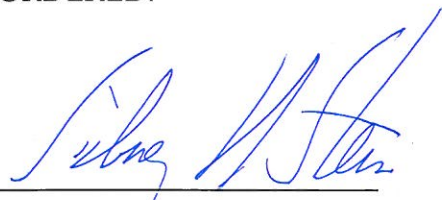
v. Ortiz, 849 F.2d 793, 797 (2d Cir. 1988)). The conclusions that “Guerrero’s Complaint is untimely, and is otherwise duplicative of his February 2013 action against the Union and FJC” (*see* Report & Recommendation at 5) apply as strongly to non-moving defendant FJC as they do to the Union. Dismissal *in toto* is therefore appropriate.

Accordingly, it is hereby ORDERED that:

1. Magistrate Judge Ellis’s Report & Recommendation is adopted.
2. The Union’s motion to dismiss the complaint (Dkt. No. 4) is granted.
3. Prior to bringing any future litigation in this Court arising out of Guerrero’s termination from employment in June 2011 and the resulting arbitration, he is required to request leave of this Court to file the action, along with a copy of this Order and the complaint in the proposed action.
4. The complaint in this action is dismissed with prejudice.

Dated: New York, New York
March 14, 2014

SO ORDERED:



Sidney H. Stein, U.S.D.J.